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State of New-York.

FIRST REPORT

OF THE

COMMISSIONERS

OF THE

CODE.

ALBANY:

WEED, PARSONS AND COMPANY.

PRINTED TO THE STATE DEPARTMENT.

1885.



State of New-York.

FIRST REPORT

OF THE

C O M M I S S I O N E R S

OF THE

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ALBANY:

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FIRST REPORT

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CODE.



ALBANY:
WEED, PARSONS AND COMPANY,
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1858.

ACT

For the appointment of Commissioners under the seventeenth section of the first article of the Constitution, to prepare a Civil Code.

PASSED April 6th, 1857, three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

SECTION 1. David Dudley Field, William Curtis Noyes and Alexander W. Bradford, of the city of New-York, are hereby appointed commissioners, whose duty it shall be to reduce into a written and systematic code, the whole body of the law of this state, or so much and such parts thereof, as shall seem to them practicable and expedient, excepting always such portions of the law as have been already reported upon by the commissioners of practice and pleadings, or are embraced within the scope of their reports.

§ 2. The commissioners shall divide their work into three portions: one containing the political code, another the civil code, and a third the penal code. The political code must embrace the laws respecting the government of the state, its civil polity, the functions of its public officers, and the political rights and duties of its citizens; the civil code must embrace the laws of personal rights and relations, of property, and of obligations; the penal code must define all the crimes for which persons can be punished, and the punishment for the same. But no portion of either of said codes shall embrace the courts of justice, the functions or duties of judicial officers, nor any provisions concerning actions or special proceedings, civil or criminal, or the law of evidence.

§ 3. The commissioners shall hold their offices for five years, and any vacancies that may occur during that time, may be filled by the governor. They shall receive no compensation whatever.

§ 4. The commissioners shall report to the legislature at its next annual session, a general analysis of the codes projected by them, and the progress made by them therein, and at each succeeding annual session the progress made to that time.

§ 5. Whenever the commissioners shall have prepared the codes, or any portion of them, they shall enter into a contract with the printers for the state departments for the printing of the same, and cause the same to be distributed among the judges and other competent persons for examination; after which the commissioners shall re-examine their work, and consider such suggestions as may have been made to them. They shall then cause the codes, as finally agreed upon by them, to be reprinted under the contract as aforesaid, and distributed to all the judges of the court of appeals, supreme court, superior court and common pleas of the city of New-York, and to all the county judges, surrogates and county clerks, six months before being presented to the legislature, and the penal code to be distributed in like manner to the district attorneys of the several counties of this state.

§ 6. This act shall take effect immediately.

REPORT.

TO THE LEGISLATURE OF THE STATE OF NEW-YORK :

THE COMMISSIONERS OF THE CODE, appointed by the Act of April 6, 1857, beg leave to make this their first

REPORT :

Immediately upon their appointment, they entered upon the performance of the duties committed to them, impressed with the magnitude of the undertaking, the difficulty of its accomplishment, and the necessity of caution and deliberation in every step they should take, but with a determination to recoil from no obstacle, possible to be overcome by their efforts, and to submit to any amount of labor and sacrifice necessary for the preparation of a Code of the whole body of the law.

It is known to the Legislature, that the duty which the Commissioners are performing is one of the greatest, most difficult, and most responsible.

Nothing within the range of government can exceed in magnitude the task of collecting, condensing and arranging the jurisprudence of a people. The structure of government and society, and all their complex relations, are comprehended within it. Public order, sound morals, all advancement in the

arts of civilization, and all growth in true prosperity, are dependent, in a great degree, upon those rules of action, which the state prescribes for the conduct of its citizens.

The difficulty and responsibility, in this instance, are increased by two considerations; the present state of the law, and the necessity of some modification to make a harmonious system. The condition of our law at the present time, is not unlike that of the Roman law in the time of Justinian, or of the French law in the time of Napoleon. From the date of the Twelve Tables to the age of Justinian, the polity and institutions of the Romans had so largely changed, so many new and various laws had been added, and the numerous decisions consequent upon the extension of commerce, the enlargement of the Republic and Empire, the modifications of social relations, and the conflict of laws of different provinces and nations, had become so complicated, that a Code, which is a condensed and reformed Digest, was a matter of necessity. Something of the same kind is observable now.

Our law is the product of ten centuries, most of them filled with tumult and disorder; it is compounded of many incongruous elements, Saxon and Norman customs, Feudal and Roman law, provincial usages, and the decisions of various and disagreeing tribunals. We have Equity law, Admiralty law, Canon law, as the law of marriage and succession, and two kinds of Common law, one contradistinguished from Statute, and the other from Equity. Society has undergone an entire transformation. The feudal system has fallen to pieces; monarchical institutions have given place to republican; land from being almost inalienable has become an article of daily and hourly traffic; and commerce, once so narrow and timid, embraces the world. Personal rights, and personal property have assumed an importance never before known; the numberless questions arising from modern enterprise,

travel, emigration, and the expansion of industry and commerce, have developed new departments of jurisprudence; while the multiplication of courts required by the necessities of an increased population, and a traffic constantly augmenting, has produced a mass of adjudications, painful for the student to contemplate, and often difficult if not impossible to reconcile. Thus we have arrived at the period of which the Roman historian complained so justly, when "the infinite variety of laws and legal opinions had filled many thousand volumes, which no fortune could purchase, and no capacity could digest."

How far, in the preparation of a Code, changes should be recommended, is a question of much delicacy. They should, without doubt, be cautiously admitted. Law is the growth of time and circumstance. An original system of jurisprudence, founded upon mere theory, without reference to national characteristics, habits, traditions and usages, would be a failure. The science of government and law is progressive; new regulations spring from necessity, or are suggested by experience, and the application of the rules of justice to human affairs is constantly modified by the changing circumstances of society. The process is easily understood. In the earlier stages of civilization, when communities are small and isolated, local customs are more distinct, in conformity with local character; but as cultivation and intercourse gradually break down provincial peculiarities, and eradicate partial customs, the tendency to assimilation enables the legislator to disregard inconvenient rules, venerable only from age and habit, and gradually to introduce changes, which have the experience of other communities to recommend them, and which seem better adapted to an advanced civilization. We thus reach a stage, in which valuable improvements may be borrowed from other systems and engrafted into our own, without impairing the harmony of our laws, by the introduction of unsuitable elements.

For example, the law of special or limited partnerships, the offspring of the commerce of the middle ages, unknown to the common law, has within a recent period been adopted into our own legislation, with manifest advantage. So we have also seen the influence of our jurisprudence reflected back upon the country from which we derived our language and our laws; and reforms, readily admitted by our plastic legislation, slowly adopted there, after having been tested by our experience; though the settled constitution and the fixed habits of England might have prevented their origination in that country.

Thus two great purposes are to be subserved in revising the jurisprudence of a nation; one, the reduction of existing laws into a more accessible form, resolving doubts, removing vexed questions, and abolishing useless distinctions; the other the introduction of such modifications as are plainly indicated by our own judgment or the experience of others. We are satisfied that this work should be performed with delicacy, caution and discrimination, that nothing should be touched, from the mere desire of change, or without great probability of solid advantage.

A Code of all the law of a commercial and opulent people can only be made after the most patient study and incessant toil. A superficial observer might, perhaps, suppose a year or two of labor sufficient for it; but he who reflects upon the infinite variety of human affairs, and that the law aims to furnish a rule for every known relation and every foreseen transaction, knows how idle it is to expect it to be hastily, if it be faithfully performed. The task should seem, indeed, to be hopeless, if it were designed to provide an express rule for every case which can possibly present itself for judicial decision. It is of course impossible to foresee all the questions which will arise in the future, or to collect and arrange all those which have arisen and been solved, so as to meet every

contingency in human affairs, by a definite legal rule. That which in the judgment of the Commissioners can reasonably be attempted is to collect, condense and arrange those general and comprehensive rules of action, resting upon fundamental principles, recognized by the law or by reason, which will afford, as far as possible, a guide in regard to the rights of person and of property. There should be neither a generalization too vague, nor a particularity too minute, in the Code of an enlightened and free people, whose intelligence demands that the law should be written, and brought within the knowledge of all, and whose liberty requires that no greater restraints be imposed upon their action than policy and necessity dictate. While, therefore, the Commissioners are duly sensible of the importance of having the work done with all reasonable despatch, and of the pressing need of some portions of it at the present time, they are also aware of the necessity of proceeding with deliberation, and submitting no portion till it has been carefully considered. Not only must each part be prepared with care, but its relations to the other parts must be examined before it can prudently be admitted.

Acting upon these considerations, the Commissioners began by arranging the whole system, and commencing the preparation of each of the Codes mentioned in the Act of the Legislature; and, in obedience to that act, they now report A GENERAL ANALYSIS OF THE CODES PROJECTED BY THEM AND THE PROGRESS MADE BY THEM THEREIN. It will be recollected that, before reporting any portion of the Codes to the Legislature, the Commissioners are required, first, to distribute the work among the judges and others for examination; afterwards to re-examine it, and, upon revision, distribute it anew, and then leave it six months for further examination.

All the laws of a state arrange themselves under one or the other of two general divisions ; substantive and remedial laws : or in other words, the laws which contain the rules of property and conduct, and those which prescribe the mode of enforcing these rules. The latter division has been already brought into the Codes of Civil and Criminal Procedure, which were presented to the Legislature in 1850, by the Commissioners on Practice and Pleadings. The former division is committed to the present Commissioners of the Code.

This division further separates itself into three portions : the first referring to the government and political relations ; the second, to property and private rights and relations ; and the third, to crimes and their punishment ; or, in other words, into Political, Civil and Penal Codes. The Political and Penal Codes are already far advanced. Of the Civil Code only a small part has been written.

The analysis which is herewith submitted embraces what is contemplated, as well as what is completed.

When the codification is finished, there will remain no portion of the Revised Statutes not included in it, or in the special laws mentioned in the analysis. Thus the whole of the fourth part of the Revised Statutes will be embraced in the Penal Code and Code of Criminal Procedure. The whole of the third part of the Revised Statutes is already included in the reported complete Code of Civil Procedure. The Civil Code will embrace, of course, all that is in the second part of the Revised Statutes and some that is in the first, while the Political Code will include all that remains of the first not already taken into the Civil Code, except that there are certain special laws which are long, full of details and liable to constant change, and which ought to be separately

printed and distributed; as for example the poor laws, the health laws and the militia laws. Leaving these laws out of the Political Code, that, as well as the Civil and Penal Codes, will be of size convenient for common use.

The Commissioners expect to lay the Political and Penal Codes before the next Legislature.

When the outline sketched in this analysis shall have been filled up, the Commissioners hope that there will be presented to the people of this state, in a condensed and convenient form, the great body of their laws; not the laws of England, nor the laws of France, nor yet the laws of Rome, but the laws of the foremost American Commonwealth, formed out of those which were brought in by our ancestors, and those which have sprung from the genius and the wants of our own land.

All which is respectfully submitted.

DAVID DUDLEY FIELD,
WILLIAM CURTIS NOYES,
ALEXANDER W. BRADFORD.

NEW-YORK, *February* 27, 1858.

GENERAL ANALYSIS

OF THE

POLITICAL CODE.

This Code is divided into four parts:

The FIRST declares what persons compose the People of the State, and what are the political rights and duties of all persons subject to its jurisdiction;

The SECOND defines the territory of the state, and its civil divisions;

The THIRD relates to the general government of the state, the functions of its public officers, its public ways, its general police, and civil polity;

The FOURTH relates to the local government of counties, cities, towns and villages.

PART I.

The People, as a political body, consist:

1. Of citizens, who are electors;
2. Of citizens not electors.

The citizens of the state are:

1. All persons born in this state, and resident within it, except the children of transient aliens, and of alien public ministers and consuls;

2. All persons born out of this state, who are citizens of the United States, and resident within this state

What constitutes residence:

What constitutes domicile:

Every person who is at any time within this state is, while within it, subject to its jurisdiction, and entitled to its protection.

Allegiance:

Persons in the state, not its citizens, are either:

1. Citizens of the other states; or

2. Aliens.

What are the political rights and duties of the different persons who are subject to the jurisdiction of the state:

Bill of rights:

Political rights and duties of electors;

Political rights and duties of other citizens;

Political rights and duties of citizens of the other States;

Political rights and duties of aliens ;

Rights and duties, how affected by a state
of war :

Neutrals.

PART II.

- 1 Territory of the state ;
- 2 Judicial districts of the state ;
3. Senatorial districts of the state ;
4. Assembly districts of the state ;
5. Counties of the state ;
6. Cities of the state ;
7. Towns of the state ;
8. Villages of the state.

PART III.

PUBLIC OFFICERS:

Classified as :

1. Legislative ;
2. Executive ;
3. Judicial.

LEGISLATIVE OFFICERS :

Number of them ;
Designation ;
Mode of election or appointment ;
General functions.

Statutes, divided into :**1. Public ;**

General ;

Local.

2. Private ;

When statutes take effect ;

Construction of statutes ;

Statute penalties, their operation ;

Repeal of statutes.

EXECUTIVE OFFICERS, divided into :**1. Civil ;****2. Military.****CIVIL OFFICERS, are either :****1. General, for the whole state ;**

**2. Special, for special duties in different parts
of the state ;**

3. Local, for a particular part of the state.

Number, classification and description of civil, executive officers :

Mode of election or appointment ;

General functions.

JUDICIAL OFFICERS :

Number and designation ;

Mode of election or appointment ;

General functions ;

General provisions applicable to the different classes of officers, their qualification, resignation, removal, and the filling of vacancies.

GENERAL RIGHTS OF THE STATE :

Rights over persons :

Rights over property :

1. The right of eminent domain ;
2. The right of escheat ;
3. The right of taxation and assessment, general and local.

PUBLIC WAYS:

1. Highways ;
2. Railways ;
3. Navigable streams ;
4. Canals ;
5. Bridges ;
6. Ferries.

GENERAL POLICE OF THE STATE :

Weights ;
Measures ;
Money ;
Time ;
Stock-jobbing ;
Auctions ;
Racing ;
Peddling ;
Begging ;
Drugs ;
Fires ;

Licenses;

Inns;

Sepulture;

Observance of Sunday;

General regulations for the preservation of the peace.

PART IV.

1. General laws for the government of counties;
2. General laws for the government of cities;
3. General laws for the government of towns;
4. General laws for the government of villages.

From this enumeration are omitted:

Health laws;

School laws;

Militia laws;

Election laws;

Poor laws;

Fiscal laws, including the management of the state property, and the mode of taxation;

Which are embraced in separate acts.

GENERAL ANALYSIS

OF

THE CIVIL CODE.

LAW—a rule of property and conduct, prescribed by the sovereign power of the state.

This power acts :

First, by constitutions, or organic acts of the people;

Second, by acts of the legislature, or of other and subordinate legislative bodies.

That which is not enacted, but sanctioned by the acquiescence of the legislature :

Public law ;

Customary law ;

Evidence of these laws ;

Judicial decisions.

Original civil rights :

1. Rights of person ;

2. Right of property.

How far a civil right may be waived, or surrendered,
or lost by neglect.

Three general divisions of the Civil Code, embracing :

Persons ;

Property ; and

Obligations.

Persons.

Adults ;

Minors ;

Insane persons :

1. Idiots ;
2. Imbeciles ;
3. Madmen ;
4. Drunkards.

Tutelage of minors and insane persons.

Names of persons :

What constitutes the name ;

How given ;

How changed.

PERSONAL RIGHTS :

Sanctity of person :

Freedom from assault ;

Freedom from restraint ;

Freedom from menace ;

Freedom from injury to health.

Sanctity of conscience and opinion :

Freedom of worship ;

Freedom of speech.

Sanctity of character :

Libel ;

Slander.

Sanctity of domestic relations.

PERSONAL RELATIONS.

HUSBAND AND WIFE :

How relation contracted :

Marriage :

Parties ;

Age ;

Relationship.

How dissolved :

Divorce ;

Death.

How affected by conviction for crime ;

Rights and duties of each :

As to person ;

Property, and

Offspring.

PARENT AND CHILD :

Rights and duties of each :

During minority ;

After minority ;

In cases of insanity.

Illegitimate children, their rights and duties ;

Rights and duties of parent (mother or father)
respecting illegitimate children ;

Adoption.

GUARDIAN AND WARD :

Testamentary guardian ;

General guardian ;

Guardian in socage.

How relation contracted :

1. By deed ;
2. By will ;
3. By judicial appointment ;
4. By the law, without deed, will, or judicial appointment.

How dissolved :

Revocation ;

Removal ;

Lapse of time.

Rights and duties of each :

As to person ;

As to property.

Property.

That which one or more persons have the right to use, to the exclusion of others.

In what things there may be property ; or what things are capable of appropriation.

All property has an owner, whether that owner be the state, and the property public, or the owner an individual, and the property private.

Two general divisions of property into:

Real (or immovable);

Personal (or movable).

REAL PROPERTY consists of:

1. Land;
2. That which is affixed to land;
3. That which is incidental [or appurtenant] to land.

What is land :

Earth;

Structure;

Upland ;

Shore ;

Soil under tide-water ;

Water-course ;

Bed of lake.

When is a thing to be deemed affixed to land :

Uniform rule in respect to trade, agriculture and inheritance.

When is a thing to be deemed incidental to land :

Real property, how acquired : by

1. Possession during a prescribed period, or prescription :

Occupancy ;

Accession ;

Alluvion.

2. Inheritance (descent or succession) :

1. Lineal ;

2. Collateral.

Order of descent ;

Degrees of relationship, and how computed.

3. Transfer by deed :

Requisites of deed ;

Covenants in deed ;

Short form of deed.

4. Devise or transfer by will :

Form ; and

Interpretation ;

Generally as in wills of personal property.

Liability of heirs and devisees :

To what extent ;

How long continued.

5. Judgment :

Forfeiture ;

Escheat.

6. Operation of law.

Real property, how used :

Conterminous owners ;

Excavations ;

Party-walls ;

Fences ;

Boundaries.

Trusts :

Express ;

Implied :

Defined ; and

Regulated.

Powers :

Defined ; and

Regulated.

Real property, how lost : by

Destruction ;

Desertion [or dereliction] ;

Death of the owner ;

Transfer ;

Dedication to the public ;

Appropriation by the state.

Interests in real property :

Corporeal interests [tangible, capable of manual delivery] ;

Incorporeal interests [intangible], for example :

Franchises.

Commons :

Pasture ;

Fishery ;

Wood ;

Mines or other products.

Rents.

Easements :

Water ;

Light ;

Air ;

Heat ;

Ways ;

Pews in churches ;

Vaults ;

Rights of burial.

Entire interest [unlimited, absolute] ;

Partial interest [limited, qualified or conditional] :

In duration :

For life of the grantee or of some other person ;

Dower ;

Curtesy ;

Years.

Landlord and tenant :

Attornment ;

Emblements ;

Timber ;

Waste ;

Repair ;

Fuel.

In use or enjoyment :

Conditions :

Precedent ;

Subsequent ;

Mortgage.

Present interest :

In possession.

Future interest (expectant) :

Possession postponed.

Separate interest.

United interests (blended):

Tenancy in common ;

Joint tenancy.

Vested interest ;

Contingent interest ;

Abeyance.

PERSONAL PROPERTY :

Every kind of property, which is not real, is personal.

This includes things in action, and stock (or shares) in corporations.

Personal property follows the person of its owner, and is generally governed by the law of his domicile.

Property in inanimate things.

Property in animals :

Domestic animals ;

Animals wild by nature, but taken into possession ;

Offspring, to whom belonging ;

Animals trespassing, their treatment ;

Estrays.

Interests in personal property ;

How far similar to those in real property.

Personal property in general :

How acquired :

1. By occupancy, or possession obtained by making
or holding for periods prescribed :

Patent right ;

Copy right ;

Accession.

2. Personal property, acquired by transfer:

Written :

Sealed ;

Unsealed.

Unwritten ;

Gift, to take effect in life ;

Property to be delivered :

What is delivery.

Gift in anticipation of death:

How made;

Validity;

Revocation.

Gift to take effect at death.

3. Personal property, acquired by will:

1. Written;

Mutual;

Duplicate;

Foreign;

Lost or destroyed;

Codicil.

Who may make:

Capacity;

Age;

Marriage;

Influence.

How made:

Form of execution;

Republication.

What may be given:

Charitable uses.

Who may take :

Election.

2. Nuncupative :

When lawful ;

How made.

Revocation :

1. Express revocation :

When total ;
partial.

2. Implied revocation :

When total ;
partial ;

By marriage ;

Birth of issue ;

Alteration of estate ;

Another will or codicil.

Interpretation :

Ambiguity ;

Mistake ;

Uncertainty ;

Misnomer ;

Intention.

EXECUTORS AND ADMINISTRATORS:

Who entitled :

1. Competency ;
2. Qualification ;
3. Renunciation ;
4. Removal ;
5. Death.

Rights, powers, duties and liabilities :

- Mutual ;
- Separate ;
- Survivor ;
- Discretion.

Assets :

- Real ;
- Personal ;
- Fixtures ;
- Emblements.

Inventory :

- Appraisement ;
- Property exempt.

Sale of property :

- Conversion ;

Actual ;

Constructive.

Payment of :

(1.) Debts :

When ;

Order of priority.

Support of family ;

Funeral expenses ;

Mortgages, taxes, assessments.

(2.) Legacies ;

(3.) Distributive shares.

Accounting :

Partial, final ;

By testamentary trustees or guardians ;

Commissions ;

Investment.

Distribution :

(1.) Widow ;

(2.) Next of kin ;

(3.) Representation ;

(4.) Married women ;

(5.) Advancement ;

(6.) Maintenance and education.

Legacy :

General ;

Specific ;

Demonstrative ,

Cumulative ;

Charged on land ;

Absolute ;

For life—consumable articles ;

Residue ;

Annuities ;

Conditions :

1. Subsequent ;

2. Precedent ;

3. Impossible ;

4. Illegal ;

5. Repugnant.

Performance ;

Ademption ;

Abatement ;

Satisfaction.

Vesting :

When it takes effect ;

When postponed.

Lapse :

By death before testator ;

By death after testator ;

Presumption of death. ●

Survivorship :

To what time referrible ;

Accruing shares.

Substitution ;

Description of legatees :

1. Children ;

2. Heirs ;

3. Next of kin ;

4. Relation ;

5. Descendants ;

6. Issue.

Interest :

From what time due :

Widow ;

Minor children ;

Maintenance.

4. Personal property, acquired:

By judgment ;

Forfeiture ;

Capture in war and condemnation.

5. Personal property, acquired by the law :

Succession.

Personal property, how lost: by

Destruction;

Desertion ;

Death of the owner;

Transfer;

Appropriation by the state.

PARTICULAR KINDS OF PERSONAL PROPERTY :

1. Things in action ;
2. Shipping ;
3. Stock in corporations ;
4. Title deeds ;
5. Other kinds.

THING IN ACTION :

A right to recover money or other property arising out of :

1. The violation of a personal right ;
2. The violation of a right of property ;
3. An obligation ; or
4. The operation of law.

SHIPPING :

DEFINITION OF SHIPPING :

Different kinds :

1. Foreign, or for external navigation ;
2. Domestic, or for internal navigation.

Title to shipping :

How obtained :

Building ;

Bill of sale ;

Registry.

Employment of shipping ;

Who may direct the employment ;

Consequences of disagreement between joint owners.

CHARTER PARTY :

Definition ;

Form ;

Rights and duties of charterer (hirer) ;

Rights and duties of owner, when a charter party has been effected :

1. In respect to the charterer ;
2. In respect to third persons.

RULES OF NAVIGATION :

Regarding steam ;

Sail ;

Night ;

Fog ;

Light. ‘

COLLISION :

Jettison ;

Average and contribution.

WRECK :

Derelict ;

Salvage ;

Pilot :

When required ;

Consequences of not taking.

STOCK IN CORPORATIONS :

Definition of corporation ;

Two classes of corporations :

1. Public ;

2. Private.

Private divided into three kinds :

1. Corporations for religion ;

2. Corporations for benevolence ;

3. Corporations for profit.

How corporations are created ;

General powers of corporations :

1. Where they may act ;
2. How they may act :
 1. By writing, under corporate seal ;
 2. By writing, without seal ;
 3. By resolution of directors, or other managing body ;
 4. By agent.
3. What corporations may do.

IN PRIVATE CORPORATIONS :

Who may be corporators ;

How corporators are admitted ;

How corporators are removed ;

By-laws of corporations ;

Officers of corporations :

1. How appointed ;
2. How removed.

Corporate meetings ;

Meetings of the managing body ;

Records of corporations ;

Control of corporations.

CORPORATIONS FOR RELIGION :

How formed ;

How regulated.

CORPORATIONS FOR BENEVOLENCE :

Different kinds of :

1. Literary corporations :

Colleges ;

Academies ;

Schools.

2. Charitable corporations.

Rules peculiar to corporations for benevolence ;

In what instances these corporations are subject
to the control of private visitors ;

Authority of private visitors.

CORPORATIONS FOR PROFIT :

Different kinds :

1. Banking corporations :

Banking.

2. Insurance corporations ;

3. Railway corporations ;

4. Telegraph corporations ;

5. Manufacturing corporations ;

6. Other corporations for profit.

Stock ;

Subscriptions and assessments ;

Transfer of stock ;

Personal liability of corporators.

DISSOLUTION OF CORPORATIONS :

1. How they may be dissolved :

- (1.) By voluntary act, duly accepted ;
- (2.) By disuse, judicially declared ;
- (3.) By disuse for a prescribed period,
though not judicially declared ;
- (4.) By forfeiture, judicially declared.

2. At what time ;

3. Consequences of dissolution.

Revival of dissolved corporations ;

Foreign corporations :

What acts they may do in this state ;

When and how far subject to our laws.

TITLE DEEDS :

Disposal thereof ;

Who entitled to their custody.

OTHER KINDS OF PERSONAL PROPERTY.

Obligations.

IN GENERAL.

Obligation, a legal duty, by which one person is bound to the performance or omission of an act towards another, arising from :

1. The contract of the parties ;
2. The operation of law.

Contract, an agreement to transfer or deliver, or to do or not to do, a certain thing :

Express ;

Implied.

THINGS ESSENTIAL TO A CONTRACT :

Parties capable of contracting ;

Subject ;

Consent ;

Consideration :

Parties, who may be ;

Subject, what it may be :

Must be legal ;

Not legal, when :

1. Contrary to express provision of law ;
2. Contrary to the policy of the law, though not expressly prohibited ;

3. Upon a wager ; or

4. Otherwise contrary to good morals.

What is generally implied in a contract to transfer or deliver a certain thing ;

What is generally implied in a contract to do or not to do a certain thing.

CONSENT :

Must be free ;

When deemed to be given.

CONSIDERATION, what :

Inadequate consideration ;

Failure of consideration.

CONTRACTS ARE DIVIDED INTO :

1. Oral contracts ;

2. Written contracts :

Sealed ;

Unsealed.

Effect of seal ;

When seal is necessary ;

Penal bonds ;

Rules peculiar to each division ;

When contracts to be deemed

Executed ; or

Executory.

INTERPRETATION OF CONTRACTS :

Intention of the parties ;

Intention ascertained :

1. By the language used ;
2. By concurrent circumstances ;
3. By usage :

What amounts to a usage ;

How ascertained ;

How far applicable.

4. By the law in reference to which the contract is made.

By what law to be interpreted :

General rules ;

Conflict of laws.

When time is of the essence of a contract :

Date ;

Relation.

Conditions :

1. Precedent ;
2. Concurrent ;
3. Subsequent.

Their construction ;

Their effect ;

Extinguishment of the obligation arising from contract :

1. Payment :

Appropriation of payments.

2. Performance in other respects ;

3. Tender or offer of performance :

How to be made ;

When to be made.

4. Accord and satisfaction ;

5. Novation and delegation ;

6. Alteration of instrument ;

7. Release ;

8. Merger ;

9. Impossibility of performance :

(1.) By the loss of the thing to be transferred or delivered ;

(2.) By prohibition of subsequent law ;

(3.) By overruling physical cause
(act of God).

Contracts are either :

1. Principal ; or

2. Auxiliary.

The most usual principal contracts relate to :

Sale ;

Exchange ;

Bailment ;

Trusteeship ;
Agency ;
Partnership and joint ownership ;
Commercial paper ;
Insurance ;
Loan of money ;
Transportation of passengers ;
Personal service ;
Building or manufacture.

The most usual auxiliary contracts relate to :

Suretyship ;
Mortgage of real property ;
Mortgage of personal property ;
Pledge of personal property ;
Bottomry ;
Respondentia ;
Other liens.

SALE.

By contract of sale one party undertakes to transfer, and the other to pay for, property :

It may be :

Oral ; or

Written :

When writing necessary.

Difference, as the contract affects real or personal property.

Distinction between sale, and agreement to sell :

What may be sold ;

The thing sold must be, at time of contract, in existence, and capable of identification and delivery ;

Rule, if a thing agreed to be sold has no existence, or existence only in part, at time of agreement to sell.

Duties of seller :

Warranty, express or implied, as to title, quality, quantity and existence of thing sold :

Implied, that seller has the thing in his possession or power, and a good title ;

Sale by sample.

Representation :

Disclosure,	}	of defects or other circum-
		stances affecting quantity,
Concealment,	}	quality or value.

Duty of purchaser ;

When contract executory ;

When executed.

Delivery :

How, when, where, in what condition, and with what accessories to be made :

1. As to real property :

Escrow.

2. As to personal property :

Conditional delivery.

When complete :

As sold in bulk, or by weight, count or measure.

When payment and delivery are to be concurrent acts ;

Right of stoppage, in transit :

What it is ;

Who may exercise it ;

When it may be exercised, and where ;

Consequences of exercise.

Conditional sale.

EXCHANGE :

Contract, to give property for property, without reference to money.

Similar rules applicable, as in case of sale, except that other property takes the place of money.

Rules, when one party has fulfilled his obligation, and the other is unable to fulfil his.

BAILMENT.

Bailment, a delivery of personal property, capable of manual delivery, where the ownership is not transferred, and the property or its proceeds are to be re-delivered.

There are five different kinds of bailment :

1. Bailment [or delivery] for gratuitous keeping ;
2. Delivery, for gratuitous service ;
3. Delivery, upon gratuitous loan ;
4. Delivery, upon pledge ;
5. Delivery, upon hire.

(The first three are personal trusts not assignable.)

Different degrees of care required of bailees :

1. Ordinary care, or such as a person of ordinary prudence usually takes in his own affairs ;
2. Slight, or less than ordinary, and yet reasonable care ;
3. Extraordinary, or more than ordinary care.

Delivery for gratuitous keeping [or deposit] :

Duty of bailee, to keep with slight care, and re-deliver, according to the trust :

When to re-deliver ;

To whom ;

In what manner ; and

In what condition ;

Right to be reimbursed reasonable expenses.

Finder of a thing lost, to be deemed bailee of the true owner, but with a right to proof of ownership.

Delivery for gratuitous service [or mandate].

Different kinds of service :

1. To be carried from place to place ;
2. To have some other act done :

Rights of bailer ;

Rights and duties of bailee.

Delivery upon gratuitous loan :

Rights of bailer ;

Rights and duties of bailee.

Delivery, upon pledge :

Distinction between pledge and mortgage ;

Rights and duties of pledger ;

Rights and duties of pledgee.

Delivery, upon hire :

Different kinds of bailment upon hire :

1. To be kept for hire ;
2. To be used for hire ;
3. To be worked upon or disposed of for hire ;
4. To be carried for hire.

1. Delivery, to be kept for hire :

- (1.) Storekeepers ;
- (2.) Warehousemen ;
- (3.) Wharfingers ;
- (4.) Innkeepers.

Rights and duties of bailer ;

Rights and duties of bailee.

2. Delivery, to be used for hire :

Rights and duties of bailer ;

Rights and duties of bailee.

3. Delivery, to be worked upon or disposed of for hire :

Rights and duties of bailer ;

Rights and duties of bailee.

Confusion, or blending the materials of
bailer and bailee :

Effect of, upon the rights of each.

4. Delivery, to be conveyed for hire :

Carriers in general ;

Rights and duties of carriers in general.

COMMON CARRIERS :

Who are such ;

Distinction between common carriers and other owners
of vehicles, such, for example, as hackney coaches.

CARRIERS BY SEA :

The great inland lakes (naming them), and their
connecting rivers (naming them), to be deemed
seas.

CARRIERS BY LAND :

All to be deemed carriers by land, who are not
carriers by sea, though the carriage may be wholly
or partly on canals, or on lakes or rivers other than
the great inland lakes and their connecting rivers :

Different kinds :

1. Cartmen ;
2. Wagoners ;
3. Porters ;
4. Owners of stage-coaches ;

5. Masters and owners of vessels ;
6. Railway companies ;
7. Express companies.

RIGHTS AND DUTIES OF COMMON CARRIERS :

Obligation to receive ;

When to carry ;

In what manner to carry ;

Degree of care ;

To whom, when, and how to deliver ;

Consignor and consignee ;

Rights and duties of each ;

Loss or injury, by overruling physical cause ;

Loss or injury, by public enemies ;

Duties of successive carriers, one receiving from another ;

How far the responsibility of carriers is capable of restriction or qualification :

1. By agreement ;
2. By notice from carrier.

At what time and how notice to be given.

BILL OF LADING :

Form and object of it ;

Duties imposed by it ;

Printed restrictions in, their effect.

FREIGHT :

When payable ;
By whom payable ;
To whom payable ;
When and how apportioned.

TRUSTEESHIP :

In what cases ;
Who may be trustee ;
Survivorship ;
Rights, duties and liabilities of trustees ;
Rights, duties and liabilities of beneficiaries.

AGENCY :**DEFINITION OF AGENCY :**

In respect to what things agency may be created ;
Who may be agent, and who principal.

DIFFERENT KIND OF AGENCIES :

Public ;
Private ;
General ;
Special ;
Commercial :
1. Factors ;
2. Brokers.

HOW AGENCY IS CREATED :

1. By individuals ;
2. By corporations ;
3. By unincorporated associations.

Extent of agent's authority.

JOINT AGENCIES :

1. In respect to joint principals ;
2. In respect to joint agents.

RIGHTS OF AGENTS :

1. In respect to their principals ;
2. In respect to third persons.

LIABILITIES OF AGENTS :

1. In respect to their principals ;
2. In respect to third persons :
 1. Upon contract ;
 2. For wrongs.

TERMINATION OF AGENCY :

How effected ; and

When effected.

Consequences of termination of agency.

GENERAL ANALYSIS OF**PARTNERSHIP AND JOINT OWNERSHIP :**

Definition of partnership ;

Definition of joint ownership ;

Distinction between partnership and joint ownership.

DIFFERENT KINDS OF PARTNERSHIPS :

1. General;
2. Special (or limited.)

DIFFERENT KINDS OF PARTNERS :

1. Open ;
2. Secret ;
3. General;
4. Special.

WHO MAY BE PARTNERS :

By what acts, one not a partner, makes himself liable as such to third persons, or strangers.

GENERAL PARTNERSHIP :

How formed.

RIGHTS OF GENERAL PARTNERS :

1. Between themselves:
 - (1.) Arising upon express stipulation;
 - (2.) Arising upon legal presumption, in the absence of express stipulation.
2. Between themselves and third persons.

LIABILITIES OF GENERAL PARTNERS :

In respect to partnership property ; and

Upon their contracts :

1. Between themselves ;
2. Between themselves and third persons.

TERMINATION (OR DISSOLUTION) OF GENERAL PARTNERSHIP :

How produced ;

Consequences of termination :

1. Between the partners, or their representatives ;
2. Between them and third persons.

SPECIAL PARTNERSHIPS :

How formed ;

Liability of special partners to third persons ;

Particular rules applicable to special partnerships.

JOINT OWNERSHIP OF PERSONAL PROPERTY :

Different kinds of joint ownership :

1. In shipping ;
2. In the property of joint-stock companies ;
3. In other personal property.

COMMERCIAL PAPER :

Six classes of commercial paper :

1. Bills of exchange ;
2. Promissory notes ;
3. Negotiable bonds ;
4. Bank-notes ;
5. Bank-checks ;
6. Certificates of deposit.

DEFINITION OF A BILL OF EXCHANGE :

Form of it.

DEFINITION OF A PROMISSORY NOTE :

Form of it.

DEFINITION OF A NEGOTIABLE BOND :

Form of it.

DEFINITION OF A BANK-NOTE :

Form of it.

DEFINITION OF A BANK-CHECK :

Form of it.

DEFINITION OF A CERTIFICATE OF DEPOSIT :

Form of it.

Correspondence and distinction between the different kinds of commercial paper.

GENERAL RULES APPLICABLE TO BILLS AND NOTES :

Date ;

Parties ;

Consideration :

Sufficient consideration ;

Want of consideration ;

Failure of consideration ;

Illegal consideration.

Amount ;

Time of payment ;

Days of grace.

INDORSEMENT :

1. General ;

2. Special.

Transfer by delivery.

PRESENTMENT FOR PAYMENT :

When to be made ;

Where ;

By whom ;

To whom ; and

In what manner.

NOTICE OF NON-PAYMENT :

To be in writing, and what to contain ;

When to be given ;

Where ;

By whom ;

To whom ; and

In what manner.

PROTEST :

When necessary.

WAIVER OF PRESENTMENT, AND NOTICE :

Or either of them ;

When it may be taken ; and

How taken.

TITLE OF HOLDER :

1. Holder in good faith :

Who is such.

2. Holder for value ;

3. Holder without notice ;

4. Accommodation paper :

What it is ; and

Rights and liabilities of parties upon it.

GUARANTY OF COMMERCIAL PAPER :

In what respect different from indorsement ;
How made ;
Effect of it.

PARTICULAR BILLS AND NOTES :

1. Those which are not, in form, negotiable :
Rules specially applicable to them.
2. Those which are payable in specific articles :
Rules specially applicable to them.

RULES SPECIALLY APPLICABLE TO BILLS OF EXCHANGE :

Different kinds of bills of exchange ;
Foreign and inland ;
Undertaking of the different parties to bills ;
Presentment for acceptance ;
When necessary :
At what time to be made ;
Where to be made ;
By whom ;
To whom ; and
In what manner.

NOTICE OF NON-ACCEPTANCE :

At what time to be given ;
When to be given ;

By whom ;

To whom ; and

In what manner.

DAMAGES FOR NON-ACCEPTANCE, OR NON-PAYMENT :

Rules specially applicable to promissory notes ;

Rules specially applicable to negotiable bonds ;

Rules specially applicable to bank-notes ;

Rules specially applicable to bank-checks ;

Rules specially applicable to certificates of deposit.

LOSS OF BILL, NOTE, NEGOTIABLE BOND, BANK-NOTE, BANK-CHECK OR CERTIFICATE OF DEPOSIT :

Effect of it.

RECEIPT OF COMMERCIAL PAPER FOR A DEMAND, WHEN TO BE DEEMED PAYMENT.

INSURANCE :

Definition of insurance ;

Different kinds :

1. Marine insurance ;
2. Fire insurance ;
3. Life insurance ;
4. Other insurance.

MARINE INSURANCE :

Who may insure ;

Who may be insured ;

What may be insured :

1. Nature of property ;
2. Insurable interest.

POLICY :

Form ;

Different kinds :

1. Open ;
2. Valued.

Printed stipulations.

PREMIUM :

Return of premium, in whole or part, if risk be not commenced ;

Perils insured against.

CONCEALMENT AND MISREPRESENTATION :

Warranties (or conditions) :

1. Express ;
2. Implied.

VOYAGE :

1. Commencement ;
2. Continuance ;
3. Termination.

DEVIATION :

What, and when allowable.

LOSS :

1. Total ;
2. Partial.

Rights and duties of insurer;

Rights and duties of insured.

ABANDONMENT :

1. Of ship ;
2. Of goods ;
3. Of freight ;

What is abandonment ;

When allowable, and effect of it.

DOUBLE INSURANCE.**RE-INSURANCE.****FIRE INSURANCE :**

Nature of fire insurance ;

Form of policy ;

Who may insure ;

Who may be insured ;

What may be insured.

What rules of marine insurance are applicable to fire insurance ;

Rules of law peculiar to fire insurance.

LIFE INSURANCE :

Nature of life insurance ;

Form of policy ;

Who may insure ;

Who may be insured ;

Upon what terms.

What rules of marine insurance are applicable to life insurance ;

Rules of law peculiar to life insurance.

OTHER INSURANCES :

LOAN OF MONEY :

Definition of a loan of money ;

What interest may be charged ;

Overcharge, or usury ;

Effect of usury upon the loan ;

Effect of usury upon auxiliary contracts.

TRANSPORTATION OF PASSENGERS :

Carriers of passengers by sea ;

Carriers of passengers by land ;

Who to be deemed passengers ;

Rights and duties of passengers.

PERSONAL SERVICE :

To what extent, for what time, and on what terms a contract for personal service may be made ;

Different kinds of service ;

Rules peculiar to each ;

Who may enter into the contract ;

What is to be implied in the absence of express provisions to the contrary :

1. As to the hours of labor ;
2. As to the payment of the person in service ;
3. As to his support ;
4. As to his treatment in other respects.

Master and

Servant :

Apprentices ;

Indentures.

Certain kinds of service : those of

1. Shipmasters ;
2. Seamen ;
3. Owners and workers of telegraphic lines.

SHIPMASTER :

Who may be ;

By whom appointed ;

His authority ;

His rights and duties in respect to the owner ;

His rights and duties in respect to third persons.

SEAMEN :

How they are engaged ; and

By what form of contract ;

Their rights and duties :

1. In respect to the shipmaster ;
2. In respect to the owner ;
3. In respect to third persons ;
4. Wages ;
5. Forfeiture of wages ;

Barratry of shipmaster and seamen.

OWNERS AND WORKERS OF TELEGRAPHIC LINES :

What messages to transmit ;

At what time, and in what order to transmit them ;

How, when and to whom to be delivered ;

What shall excuse neglect to transmit or deliver ;

Responsibility for not transmitting or delivering,
To what extent, and to whom.

BUILDING OR MANUFACTURE :

House building ;
Ship building ;
Manufacture of goods ;
Rules peculiar to each.

SURETYSHIP :

Definition of suretyship ;
General principles of suretyship ;
In what cases the contract may be made ;
How the contract is made ;
How it is extinguished.

PARTICULAR FORMS OF SURETYSHIP :

1. Mercantile guaranty ;
2. Letter of credit ;
3. Indemnity ;
4. Bail.

Continuing guaranty, when.

**RIGHTS AND LIABILITIES OF SURETY WITH REFERENCE
TO THE PRINCIPAL ;**

RIGHTS AND LIABILITIES OF SURETY WITH REFERENCE TO
THE CREDITOR OF THE PRINCIPAL ;

RIGHTS AND LIABILITIES OF SURETIES WITH REFERENCE
TO EACH OTHER ;

RIGHTS AND LIABILITIES OF SURETIES WITH REFERENCE
TO THIRD PERSONS.

MORTGAGE OF REAL PROPERTY :

Form of mortgage ;

Express mortgage ;

Implied or equitable mortgage ;

Interests of mortgager and mortgagee in real property
mortgaged ;

Who entitled to possession ;

Extinguishment of mortgage ;

Merger ;

Surplus on sale.

MORTGAGE OF PERSONAL PROPERTY :

What personal property may be mortgaged ;

Who may mortgage ;

Form of mortgage ;

Express mortgage ;

Implied or equitable mortgage ;

Interests of mortgager and mortgagee in personal property mortgaged;

Who entitled to possession ;

Extinguishment of mortgage;

Surplus on sale.

PLEDGE OF PERSONAL PROPERTY :

Described and provided for in the title on bailments.

BOTTOMRY:

Bottomry, a lien upon a vessel as security for a loan ;

Definition of lien ;

Who may borrow on bottomry;

For what purpose a loan on bottomry may be effected;

To what extent;

When and where the loan may be made;

At what rate of interest;

Effect of loss of vessel upon the loan;

When the loan becomes payable;

Preference of a bottomry lien over other liens;

Preference of successive bottomry liens.

RESPONDENTIA :

Lien upon cargo on the like conditions, and subject to the like rules.

OTHER LIENS :

Different kinds :

1. Maritime ;
2. Not maritime.

When possession essential to a lien ;

How a lien is created :

1. By express contract ;
2. By contract implied from usage ;
3. By operation of law.

In what cases a lien is implied from usage ;

How a lien is lost ;

Particular liens :

Lien on buildings, for work and materials ;

Lien on vessels, for work, materials and supplies ;

Lien of inn-keepers.

General Provisions, applicable to Persons, Property and Obligations.

COMPENSATION IN DAMAGES :

As a general rule, is the means provided by the law for the protection of rights ;

Measure of damages : what in the different cases, where rights have been violated.

SPECIFIC AND PREVENTIVE RELIEF

Are the exceptional means, and to be used only in specified cases.

SPECIFIC RELIEF :

What it is ;

In what cases permitted :

To obtain possession of land ;

To obtain possession of chattels ;

For the performance of contracts ;

For the revision of contracts ;

For the rescission of contracts.

EXECUTION OF TRUSTS :

Compelled and superintended.

EXECUTION OF POWERS :

Compelled and superintended ;

When defective execution supplied.

PREVENTIVE RELIEF :

In what cases permitted.

FRAUD :

Actual ;

Constructive.

What is to be deemed fraud ;

Effect of fraud.

UNDUE INFLUENCE :

What ;

Its effect.

MISTAKE :

Of fact ;

Of law.

What is to be deemed mistake;

Effect of mistake.

ACCIDENT :

What;

Its effect.

DEBTOR AND CREDITOR :

Their relative rights in respect to the debtor's property:

Transfers without consideration;

Transfers, for the payment of debts, with preferences;

(Assignments by insolvents.)

ACTION PENDING :

Its effect upon the transfer of property.

NOTICE :

Actual;

Constructive.

How given;

When deemed to have been given.

NUISANCE :

1. Public;
2. Private.

MAXIMS OF JURISPRUDENCE.

GENERAL ANALYSIS

OF

THE PENAL CODE.

I. THE DEFINITIONS OF CRIMES, OR PUBLIC OFFENCES:

They are:

1. Felonies;
2. Misdemeanors.

I. DEFINITION OF A FELONY;

II. DEFINITION OF A MISDEMEANOR.

II. THE PERSONS LIABLE TO PUNISHMENT FOR CRIME:

1. All who commit in whole or in part, any public offence within this state;
2. All who commit theft or fraud in another state or country, or at sea, and bring, or are found with, the property stolen or fraudulently acquired, in this state.

III. ALL PERSONS TO BE DEEMED CAPABLE OF COMMITTING
CRIMES, AND LIABLE TO PUNISHMENT, EXCEPT THOSE
MENTIONED IN THE NEXT TWO DIVISIONS.

IV. PERSONS EXEMPT FROM PUNISHMENT BY REASON OF
DEFECT OF WILL ARISING FROM :

1. Infancy ;
2. Idiocy ;
3. Insanity ;
4. Ignorance or mistake of fact ;
5. Other cases of unsound mind ;
6. Involuntary subjection to the power of superiors :
 Duress ;
 Coverture.
7. Drunkenness not an excuse ;
8. Persons acquitted on the ground of insanity, how
disposed of.

V. PERSONS EXEMPT FROM PUNISHMENT BY REASON OF
THEIR EXTRA-TERRITORIAL CHARACTER :

1. Embassadors and other public ministers from foreign states ;
2. Their families, suite and servants ;
3. To be returned to their own country for punishment.

VI. OF PARTIES TO CRIMES :

1. Principals ;
2. Accessories before the fact are guilty as principals, and ;
3. May be tried before the principal, or after he is pardoned ;
4. Other accessories ;
5. Abettors in misdemeanors, principals ;
6. Punishment.

VII. OF CRIMES AGAINST RELIGION AND CONSCIENCE :

1. Blasphemy ;
2. Profane cursing and swearing ;
3. Sabbath breaking ;
4. Wilfully attempting by threats or violence to compel any person to adopt any particular form of religious belief—(influence of parents, guardians, &c.) ;
5. Wilfully preventing any person from doing any lawful act, according to the religion he professes ;
6. Disturbing religious meetings ;
7. Stealing from houses of worship, or injuring them ;
8. Punishment.

VIII. OF CRIMES AGAINST THE SAFETY OF THE STATE :

I. TREASON AGAINST THE STATE :

1. What it is ;
2. Allegiance, natural and imposed ;
3. Conviction for treason ;
4. Effect of outlawry for treason ;
5. Punishment.

II. MISPRISION OF TREASON :

1. Punishment.

IX. CRIMES AGAINST THE ELECTIVE FRANCHISE, AND THE RIGHT OF SUFFRAGE :

1. Persons guilty of menace, bribery, or other corrupt practices in elections ;
2. Furnishing money at or for elections, except for specified purposes ;
3. Defrauding an elector in, or fraudulently changing a vote ;
4. Wilfully obstructing electors in exercising their rights as such ;
5. Voting more than once ;
6. Procuring, &c., illegal vote ;
7. Knowingly offering illegal vote ;

8. Punishment ;

9. Wilfully disturbing or breaking up lawful meetings of electors and others for considering public questions ;

10. Wilfully hindering and preventing the assembling of electors for such purposes ;

11. Preventing persons, by threats or intimidation, from attending ;

12. Wilfully preventing an elector from voting, by arrest, threats or otherwise ;

13. Disturbing any election, or the inspectors or the canvassers thereof, by riotous conduct or otherwise ;

14. Destroying ballot boxes, votes or poll lists ;

15. Keeping false poll lists ;

16. Wilfully excluding a legal, or receiving an illegal vote ;

17. False canvassing, or making false election returns, or false certificates of election ;

18. Punishment.

X. OF CRIMES BY AND AGAINST THE EXECUTIVE POWER OF THE STATE :

1. Acting in any public office, without having taken the official oath ;

2. Neglect to give the required security ;

3. Punishment ;
4. Offer to bribe, or bribing any executive officer ;
5. Accepting any bribe ;
6. Threatening or attempting to intimidate or coerce any executive officer ;
7. Resisting or attempting to resist, in execution of official acts ;
8. Punishment ;
9. Executive officers extorting rewards for official acts ;
10. Making appointments to office for gratuities or rewards ;
11. Receiving emoluments for doing or refraining from doing official acts ;
12. Punishment ;
13. Wilfully remaining in office after expiration of term ;
14. Refusing to surrender books and papers to successor ;
15. Punishment.

XI. OF CRIMES AGAINST THE LEGISLATIVE POWER OF THE STATE :

1. Preventing the meeting of either branch of the legislature by force or fraud ;

2. Wilfully disturbing them while in session ;
3. Designedly breaking up their sessions ;
4. Preventing the attendance of any member by violence or fraud ;
5. Threatening or attempting to intimidate any member from attending or voting, or in any official conduct ;
6. Compelling, or attempting to compel, by force or fraud, either house to adjourn or disperse ; or to pass or reject any law or resolution ;
7. Punishment ;
8. Bribing or offering to bribe any member or officer of either house ;
9. Accepting any bribe ;
10. Punishment ;
11. Refusing to attend either house, or a committee, as a witness in obedience to its commands ;
12. Refusing to testify or to produce papers and documents ;
13. Punishment.

XII. OF CRIMES AGAINST PUBLIC JUSTICE :

I. OF BRIBERY AND CORRUPTING JUDGES, ETC. :

1. Bribery of judges defined ;
2. Not to take gifts ;

GENERAL ANALYSIS OF

3. Punishment ;
4. Bribery of jurors, referees, arbitrators, and assessors, defined ;
5. Embracery ;
6. Not to talk with parties, &c., out of court, about the cause ;
7. Publications, with a view to influence them improperly, forbidden ;
8. Punishment ;
9. Clerks or others, drawing or empanneling juries fraudulently, punishable ;
10. So officers, having them in custody, permitting intercourse with them ;
11. Punishment.

II. BRIBERY AND CORRUPTION BY SHERIFFS, CORONERS, CLERKS OF COURTS, CONSTABLES AND OTHER MINISTERIAL OFFICERS, AND THEIR SUBORDINATES :

1. Offences defined ;
2. Mutilating, destroying, concealing or falsifying records ;
3. Embezzling or applying funds in their custody to private use ;
4. Doing any unlawful act to the hindrance of justice ;
5. Allowing insolvents, or other parties in custody, to escape ;

6. Receiving rewards of prisoners ;
7. Punishment.

III. OBSTRUCTING OFFICERS IN DISCHARGE OF OFFICIAL DUTY :

1. Offence defined ;
2. Punishment.

IV. RESCUING PRISONERS AND OTHER PERSONS UNDER ARREST OR GOODS LAWFULLY SEIZED :

1. Offence defined ;
2. Rescuing goods lawfully seized ;
3. Punishment.

V. ESCAPES AND AIDING THEREIN :

1. Definition of offences ;
2. Of attempts ;
3. Carrying instruments to aid in, into prison ;
- 4 Escapes by prisoners from prisons and jails ;
5. Punishment.

VI. FORGING, STEALING, MUTILATING AND FALSIFYING JUDICIAL AND PUBLIC RECORDS AND DOCUMENTS :

1. Offence defined ;
2. Punishment ;

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3. Procuring forged or fictitious wills, title deeds, mortgages, powers, agreements or other papers, to be recorded ;

4. Punishment.

VII. PERJURY AND SUBORNATION OF PERJURY :

1. Perjury defined ;
2. Punishment ;
3. Subornation of ;
4. Its punishment ;
5. Courts to commit for ;
6. Proceedings ;
7. Attempts to induce perjury ;
8. Its punishment.

VIII. FALSIFYING EVIDENCE :

1. Knowingly offering a forged instrument in evidence ; or
2. Any other forged or false document, deposition, deed or writing ;
3. Intentionally deceiving a witness to give testimony ;
4. Making false evidence ;
5. Wilfully keeping a witness from court ;
6. Bribing or attempting to bribe a witness ;
- 7 Punishment.

IX. OTHER OFFENCES AGAINST PUBLIC JUSTICE :

1. Officers permitting rescue or escape ;
2. Refusing to receive prisoner ;
3. Refusing to serve process or discharge any other official duty ;
4. Extortion, by demanding or receiving illegal fees ;
5. Pretending to be an officer ;
6. Refusing to aid an officer ; or
7. To make an arrest ordered by a magistrate ;
8. Resisting or combining to resist process ;
9. Unlawful and extrajudicial oaths ;
10. Compounding and concealing crimes ;
11. Preventing or suppressing evidence ;
12. Threats or intimidations to judicial or ministerial officers, jurors, referees or arbitrators ;
13. Champerty and maintenance, and buying and selling pretended titles ;
14. Common barratry ;
15. Buying choses in action, with intent to sue ;
16. Contempts of court :
 1. In open court ;
 2. Before referees ;
 3. Against process ;
 4. Before a sheriff's or any other lawful jury ;
 5. Punishment

17. Concealments of insolvents' estates, books, &c.;
18. Officers seizing person, goods or lands, without authority ;
19. Racing animals near a court ;
20. Buying and selling offices ;
21. Misconduct of attorneys in their official relations ;
22. Falsely personating another in a judicial or other proceeding, or in executing and acknowledging an instrument ;
23. Fraudulently producing false heir ;
24. Producing or substituting false child ;
25. Masters and commanders of ships knowingly bringing foreign felons into the state ;
26. Public officers wilfully refusing to perform any duty required by law ;
27. Doing any act prohibited by statute, a misdemeanor ;
28. Selling liquors in court-houses, jails or penitentiaries, or near election polls ;
29. Corruptly disclosing fact of indictment being found ;
30. Maliciously suing in the name of another without consent ;
31. Concealing, removing, &c., persons entitled to *habeas corpus* ;
32. Bringing to or carrying from state prison, letters, &c. ;

33. Town clerks wilfully refusing to return names of constables ;

34. Justices or other officers giving false certificates.

X. CONSPIRACY :

1. To commit any offence ;

2. To indict or procure any other to be arrested for an offence ;

3. Falsely to move or maintain a suit ;

4. To cheat or defraud ;

5. To commit any act injurious to morals, trade or for perverting or obstructing justice, or the due administration of the laws ;

6. Punishment ;

7. No others punishable.

XIII. OF CRIMES AGAINST THE PERSON :

I. SUICIDE :

1. Offence defined ;

2. Attempts punishable ;

3. Aiders and abettors punishable ;

4. Punishment.

II. OF HOMICIDE :

Three kinds :

1st. Murder ;

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2d. Manslaughter ;

3d. Excusable or justifiable homicide.

1. Definition of murder ;
2. Of manslaughter in its various degrees ;
3. When excusable or justifiable homicide ;
4. Punishment.

III. OF MAIMING :

1. What it is ;
2. Punishment.

IV. OF KIDNAPPING :

1. In what it consists ;
2. Selling any person ;
3. Punishment.

V. OF ATTEMPTS TO KILL BY POISONING SHOOTING OR OTHERWISE :

1. Definition ;
2. Punishment.

VI. ROBBERY :

1. Robbery in first degree defined ;
2. Garroting, how punished ;
3. In second degree ;
4. Pickpockets, how punished ;
5. Punishment.

VII. OF ASSAULT WITH INTENT TO COMMIT ROBBERY,
BURGLARY, RAPE OR OTHER FELONY :

1. Definition ;
2. Punishment.

VIII. OF DUELS AND CHALLENGES TO FIGHT :

1. Killing by duel out of the state ;
2. Challenging, or carrying or accepting a challenge ;
3. Giving or receiving a challenge out of the state ;
4. Posting for not fighting ;
5. Punishment.

IX. OF ASSAULT AND BATTERY :

1. Assault defined ;
2. Battery defined ;
3. Forcible injury under legal authority ;
4. In self-defence ;
5. In defence of another ;
6. In defence of his own or another's property ;
7. Exemptions ;
8. Attempts to commit battery ;
9. Punishment.

X. LIBEL :

1. Offence defined ;
2. Against one in his official capacity or profession ;
3. May be by writing, printing, pictures or signs ;
4. What are privileged communications ;
5. Abuse of privilege ;
6. Justification by proving truth and good motives ;
7. Threatening to publish libels ;
8. Punishment.

XIV. CRIMES AGAINST THE PERSON, AND AGAINST PUBLIC DECENCY AND GOOD MORALS :**I. OF RAPE, ABDUCTION, CARNAL ABUSE OF CHILDREN AND SEDUCTION :****1. Rape :**

Defined ;

Punishment.

2. Abduction :

Defined ;

Punishment.

3. Abuse of children :

Defined ;

Punishment.

4. Seduction :

Defined ;

Punishment.

II. WILFUL ABANDONMENT OF CHILDREN BY PARENTS
AND GUARDIANS :

Offence defined ;

Punishment.

III. ABORTIONS, AND CONCEALING THE DEATH OF AN
INFANT :

1. Causing abortion, offence defined ;

2. Attempts to procure, of quick child, by
drugs, &c. ;

3. Concealing death of an infant ;

4. Second offence ;

5. Punishment.

IV. CHILD STEALING :

1. Offence defined ; limited to children under
twelve years ;

2. Unlawfully imprisoning children on claim of
right ;

3. Punishment.

V. BIGAMY, INCEST AND CRIME AGAINST NATURE :

1. Bigamy defined ;

2. Punishment ;

3. Incest defined ;
4. Punishment ;
5. Crime against nature ;
6. Punishment.

VI. VIOLATING SEPULTURE AND THE REMAINS OF THE DEAD :

1. Who entitled to custody of and bound to inter a dead body ;
2. Disinterring a dead body for sale, dissection, or in wantonness, an offence ;
3. Receivers equally guilty with principals ;
4. Opening grave with intent to steal, &c., criminal ;
5. Wanton exposure of dead bodies, &c. ;
6. Neglect to provide for decent interment, an offence ;
7. Wilfully arresting or interfering with a dead body, an offence ;
8. Who entitled to custody and control after interment ;
9. Wilfully disturbing funerals ;
10. Wilfully defacing, breaking or destroying tombs and monuments ;
11. Punishment.

**VII. INDECENT EXPOSURES, OBSCENE EXHIBITIONS,
BOOKS AND PRINTS, AND BAWDY AND OTHER
DISORDERLY HOUSES :**

1. Indecent exposure of person, criminal ;
2. Model artist and other like exhibitions, prohibited ;
3. Printing and selling obscene books and prints ;
4. How they shall be destroyed ;
5. Keeping bawdy houses ; or
6. Letting houses for that purpose, an offence ;
7. Other disorderly houses ;
8. Punishment.

VIII. LOTTERIES :

1. Lotteries defined ;
2. Setting up or drawing unauthorized lotteries ;
3. Printing or publishing notice of such lottery ;
4. Selling or procuring tickets therein ;
5. Offering for sale any property dependent on drawing lottery, or on gift ;
6. Keeping office for registry of tickets ;
7. Selling chances in illegal lotteries ;
8. Private lotteries ;
9. Punishment.

IX. GAMING :

1. Gaming tables at trainings, and elsewhere, forbidden ;
2. Gaming by cards, dice, &c., forbidden ;
3. Punishment ;
4. Cheating at play, punishable ;
5. Winning or losing \$25 within 24 hours ;
6. Punishment ;
7. Raffling forbidden and punishable ;
8. Gambling apparatus to be destroyed ;
9. Possession of gaming instruments, evidence of intent to use.

X. PAWNBROKERS :

1. Offences by pawnbrokers defined ;
2. Carrying on the business without being authorized ;
3. Receiving embezzled or stolen goods, and declining to exhibit them on request ;
4. Punishment.

XV. OTHER INJURIES TO PERSONS :

1. Physician prescribing while intoxicated ;
2. Overloading passenger boats ;

3. Persons in charge of steamboats allowing the carrying of an undue quantity of steam, so as to burst boiler and risk human life ;

4. Transacting business as a firm when no real person is represented ;

5. Counterfeiting true, or using false trade-marks, or having them in possession for use, or vending goods with false trade-marks ;

6. Signing or delivering false bill of lading of vessel, or canal boat, &c. ;

7. Malicious trespasses on lands, trees, &c. ;

8. Destroying invoices or defacing marks of wrecked property ;

9. Defacing true, or putting false marks on floating timber ;

10. Wreck-masters, &c., violating laws relating to wrecks ;

11. Parties in limited partnerships guilty of fraud ;

12. Ministers and others marrying persons under age of consent, or idiots, lunatics, &c. ;

13. Overseers of the poor and other officers confining lunatics, except as authorized by law ;

14. Supervisors or overseers of poor neglecting to provide for support of bastards ;

15. Sending or taking slaves or servants out of the state, except as authorized by law;

16. Shakers or others secreting or taking child out of the state;

17. Taking or reserving illegal interest and usury.

XVI. CRIMES AGAINST THE PUBLIC HEALTH AND SAFETY:

1. Nuisances defined;

2. To particular parties how to be abated;

3. Punishment for nuisance;

4. Making and keeping gunpowder or saltpetre in cities and villages, or in too large quantities;

5. Throwing gas-tar into waters, sewers or streams;

6. Masters of vessels violating certain provisions of health laws;

7. Other persons violating them;

8. Entering quarantine ground without authority;

9. Holding intercourse with vessels at quarantine without authority;

10. Refusing or neglecting to obey orders of board of health;

11. Violating regulations for protection of the public

12. Apothecaries negligently making up prescriptions ;
13. Selling poisons or drugs without labels ;
14. Intermingling deleterious substances with hops ;
15. Adulterating any article of food ;
16. Making, vending or carrying slung shot or any similar weapon ;
17. Adulterating distilled spirits or selling them ;
18. Owner of woodlands negligently setting fire to woods, or suffering fire to extend ;
19. Refusing to assist in extinguishing fire ;
20. Ferrying without license, except in certain counties ;
21. Negligence or misconduct in railroad conductors, servants, &c., endangering human life ;
22. Exposing a person infected with a contagious disease in a public place or thoroughfare ;
23. Selling unwholesome provisions ;
24. Eavesdropping.

XVII. CRIMES AGAINST THE PUBLIC PEACE :

1. Wilfully disturbing or breaking up any lawful assembly or meeting not religious ;
2. Punishment ;

3. Riots at elections and elsewhere ;
4. Routs ;
5. Unlawful assemblies ;
6. Affrays ;
7. Punishment ;
8. Forcible entries and detainers ;
9. Punishment ;
10. Wilfully discharging fire-arms in public places—
exceptions ;
11. Punishment.

**XVIII. CRIMES AGAINST THE REVENUE AND PROPERTY OF
THE STATE :**

1. Embezzlements and frauds by public officers, collectors of canal tolls and taxes, and by others connected with the public revenue ;
2. Keeping false accounts ;
3. Altering books of account fraudulently ;
4. Refusing to account for and pay over funds ;
5. Wilfully disobeying any law regulating his official
conduct ;
6. Punishment ;
7. Wilfully hindering any officer from collecting
revenue, taxes, &c. ;
8. Auctioneers neglecting to make reports or pay
over duties ;

9. Punishment;
10. Injuries to, or offences connected with the canals and their management;
11. The same as to the Onondaga salt works;
12. The same as to the state magazines, arsenals and munitions of war, and carrying them away;
13. Malicious injuries to public buildings, lawns, trees, fences, &c.;
14. Punishment;
15. Selling goods at auction in violation of auction law;
16. Auctioneers accepting appointment from other states;
17. Selling certain goods except in the daytime;
18. Deceit in or evasion of auction law.

XIX. OF CRIMES AGAINST PROPERTY :

I. ARSON :

1. Offence defined ;
2. In the first degree ;
3. In second degree ;
4. In the third ;
5. In the fourth ;
6. Punishment.

II. BURGLARY AND HOUSEBREAKING :

1. Burglary in first degree, defined ;
2. In the second ;
3. What buildings deemed dwelling-houses ;
4. Burglary in the third degree ;
5. What deemed a breaking ;
6. Breaking out, when burglary ;
7. Breaking an inner door, when burglary ;
8. Punishment.

III. FORGERY AND COUNTERFEITING :

1. Forgery in first degree, defined ;
2. Forging public, official or corporate seals ;
3. Altering records, forgery ;
4. False entries in records, forgery ;
5. False certificates of proof of deeds, &c., forgery ;
6. Counterfeiting gold and silver coin ;
7. Forging foreign coin ;
8. Engraving plates in similitude of bank bills ;
9. When plates deemed in similitude of bank bills ;
10. Selling and receiving counterfeit notes ;
11. Forging certain public and private instruments ;
12. False entries in public books of account ;

13. False entries in private account books by clerks and servants ;
14. In books of monied and other public and private corporations ;
15. Fraudulent alterations therein ;
16. Having counterfeit bills, &c., in possession, with intent to pass ;
17. Having in possession other counterfeit instruments ;
18. Possessing counterfeit coins ;
19. Uttering counterfeit instruments or coin ;
20. When forgery in fourth degree ;
21. Making false instrument in one's own name ;
22. False certificates of stock by transfer agents of monied and other corporations, forgery ;
23. Reissuing surrendered certificates fraudulently, forgery ;
24. Certain rules of evidence as to forgery ;
25. Punishment.

IV. LARCENY :

1. Grand larceny defined ;
2. Value of written securities stolen ;
3. Severing from soil, &c., larceny in certain cases ;
4. Punishment ;

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5. Stealing records, &c.;
6. Punishment;
7. Petit larceny and its punishment;
8. Buying, receiving or detaining stolen property or its proceeds;
9. Conviction of principal not necessary;
10. Fraudulently appropriating property found;
11. Stealing wrecks, things lost, estrays, &c.;
12. Ownership thereof, how alleged;
13. Secreting goods with fraudulent intent, larceny;
14. Certain rules of evidence as to larceny;
15. Punishment.

V. FALSELY PERSONATING ANOTHER, AND CHEATS :

1. Doing certain acts in a false character, criminal;
2. Marrying in false name;
3. Becoming bail or surety in false name;
4. Incurring a debt in name of another;
5. Receiving any money or other valuable thing by false personation;
6. Punishment;
7. Deceiving by false pretences and tokens;
8. Punishment;

9. Obtaining by false pretences any money, valuables or subscriptions, for benevolent purposes ;

10. Punishment ;

11. Rules of evidence as to written instruments.

VI. EMBEZZLEMENT:

1. Embezzlement, defined ;

2. By an officer, director, clerk, servant or agent of a bank or banking association ;

3. By an officer, director, clerk, servant or agent of any railroad company ;

4. By an officer, director, clerk, servant or agent of any other public or private corporation ;

5. By carriers and others, by land or water, their agents and servants ;

6. By trustees, bankers, merchants, brokers, attorneys and agents, entrusted with property for the use of others, or for any public, or benevolent purpose ;

7. By bailees of personal property ;

8. By clerks or servants ;

9. Distinct act of taking, not necessary ;

10. Use of the property sufficient, if it be not restored, though the party intended to restore it ;

11. Other rules of evidence ;

12. Degrees of the crime ;

13. Punishment.

VII. EXTORTION OTHER THAN BY PUBLIC OFFICERS:

1. Offence defined ;
2. Attempting to extort money by threatening letters ;
3. By imputing or threatening to accuse of crime ;
4. By threatening to expose or impute deformity or disgrace ;
5. By threatening to expose family secrets ;
6. By threatening to injure property ;
7. By extorting signature ;
8. Attempts to extort ;
9. Punishment.

VIII. FRAUDULENTLY FITTING OUT AND DESTROYING SHIPS AND VESSELS :

1. Fraudulent casting away ;
2. Fitting out with intent to cast away ;
3. Fraudulent manifests, invoice, bills of lading, register, protest, &c. ;
4. Punishment ;
5. Fraudulent claims and proofs thereof against underwriters ;
6. Punishment.

**IX. FRAUDULENT DESTRUCTION OF PROPERTY INSURED
AGAINST FIRE OR OTHER CASUALTIES :**

1. Fraudulent burning ;
2. Any other fraudulent destruction ;
3. Fraudulent claims, and proofs thereof against underwriters ;
4. Punishment.

**X. MALICIOUS INJURIES TO RAILROADS, HIGHWAYS
AND BRIDGES :**

1. Wilful injuries to railroads, their tracks, bridges, culverts, turn-outs, locomotives, engines, cars, &c., an offence ;
2. Misplacing of switches, an offence ;
3. Obstructing tracks, an offence ;
4. Punishment ;
5. Maliciously injuring, obstructing or impairing highways or bridges, an offence ;
6. Wilfully destroying toll-houses, toll-bridges or turnpike-gates ;
7. Punishment.

XI. MALICIOUS INJURIES TO TELEGRAPH LINES :

1. Wilfully taking down, removing, injuring or obstructing them or any of their apparatus, an offence ;
2. Punishment.

XII. FALSE WEIGHTS AND MEASURES :

1. Using them, an offence ;
2. Having in possession with intent to use ;
3. Selling provisions by them, to have double punishment ;
4. Other punishment ;
5. To be destroyed, on conviction of offender ;
6. Presumption of intent to use, to arise from possession.

XIII. FRAUDULENT INSOLVENCIES :**I. BY INDIVIDUALS :**

1. Disposing of property with intent to delay, hinder or defraud creditors, an offence ;
2. Fraudulent instruments or judgments, with like intent ;
3. Fraudulently obtaining benefit of the insolvent laws ;
4. Making or presenting for that purpose, any fraudulent petition, schedule, books, account, vouchers, &c. ;
5. Fraudulently keeping or destroying account books of insolvent ;
6. Fraudulently procuring petitioning creditor to sign, &c. ;
7. Fraudulently concealing property ;
8. Punishment.

II. BY BANKS, BANKING ASSOCIATIONS, INSURANCE COMPANIES, AND OTHER CORPORATIONS AND PUBLIC COMPANIES:

1. What acts declared fraudulent ;
2. When insolvency fraudulent ;
3. Making false or fictitious subscriptions to stock ;
4. Officers of monied corporations or banking associations incurring certain debts, &c. ;
5. Putting in circulation notes beyond amount limited ;
6. Declaring dividends without having earned funds, &c., or when insolvent ;
7. Making and publishing false reports of their condition, &c. ;
8. Directors deemed to possess knowledge of condition of company, and to have concurred, unless they dissent ;
- 9 Other violations of law regulating them ;
10. Punishment.

XX. MALICIOUS MISCHIEF AND OTHER LIKE CRIMES:

1. Offence defined:

Instances specified.

2. Administering poison to cattle, hogs, sheep or other animals, or exposing it for that purpose ;
3. Committing any offence while wearing disguises ;

4. Committing wilful trespass in carrying away wood or timber;
5. Maliciously cutting down, lopping, barking or girdling trees;
6. Maliciously severing produce from freehold;
7. Maliciously severing property from freehold;
8. Digging or carrying away soil or stone without license from owner;
9. The same as to streets in cities or highways;
10. Maliciously killing, maiming or wounding any horse, ox, cattle, sheep or other domestic animal;
11. Maliciously beating or torturing any such animal;
12. Maliciously opening and reading sealed letters without permission;
13. Maliciously publishing the whole or part of any such letters;
14. Disclosing contents of telegraphic despatches;
15. Suppressing telegraphic despatches;
16. Maliciously destroying, injuring or undermining any mill-dam, or embankment erected to create hydraulic power;
17. Wilfully destroying, erasing, defacing or removing boundaries or landmarks;

18. Wilfully breaking, destroying or removing mile-stones, mile and guide-boards, or defacing or altering the inscriptions thereon ;

19. Wilfully mutilating, tearing, obliterating or destroying any note, bill, deed, agreement or written instrument of value ;

20. Maliciously destroying or injuring the personal property of another ;

21. Maliciously poisoning wells, springs, streams, water-courses, &c. ;

22. The like as to poisoning food, drink, &c. ; drinking or taking not necessary to complete offence.

XXI. MISCELLANEOUS CRIMES :

1. Violating the laws for the preservation of game ;
2. The like, for the preservation of fish ;
3. Violating the license and excise laws ;
4. Violations of the laws against hawkers and peddlers ;
5. The like, against jugglers and showmen ;
6. Violations of the laws regulating steamboats ;
7. The like, as to racing of animals ;
8. **Driver** of carriage racing his horses.

XXII. FORMER CONVICTION AND ACQUITTAL:

1. What is a former conviction;
2. What an acquittal;
3. Where the facts charged in the second would have been ground of conviction on the former prosecution;
4. Where the acts charged constitute two or more offences;
5. Acquittal on variance;
6. Trial out of the state for the same offence, or for a duel arranged within this state.

XXIII. DEFINITION OF TERMS AND EXPLANATIONS.**XXIV. OF THE GOVERNMENT AND DISCIPLINE OF COUNTY AND STATE PRISONS, AND OF THE CONDUCT AND TREATMENT OF PRISONERS THEREIN.****NOTE.**

The preceding Analysis of the Penal Code is founded mainly on the Revised Statutes of this State, and upon well settled common law principles. There are, however, some minor statutory and common law offences, not enumerated in the Analysis, which will be incorporated into the Code, under the heads to which they respectively belong.

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